

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

CARY J PICKETT,

Plaintiff,

v.

LISA WALSH et al.,

Defendants.

Case No. 2:19-cv-00611-JAD-EJY

ORDER

This action began with a pro se civil rights Complaint filed pursuant to 42 U.S.C. § 1983 by a state prisoner. Plaintiff has submitted an application to proceed *in forma pauperis*. (ECF No. 1). Based on the financial information provided, the Court finds that Plaintiff is unable to prepay the full filing fee in this matter.

The Court entered a screening order on June 16, 2020. (ECF No. 4). The screening order imposed a stay and the Court entered a subsequent order in which the parties were assigned to mediation by a court-appointed mediator. (ECF Nos. 4, 9). The Office of the Attorney General has filed a status report indicating that settlement has not been reached and informing the Court of its intent to proceed with this action. (ECF No. 12). Accordingly, the Court lifts the stay in this case.

During the stay, Plaintiff filed a motion requesting that Defendants be served the Complaint. (ECF No. 8). In light of this order outlining the procedures for service, the Court denies the motion as moot.

For the foregoing reasons, **IT IS HEREBY ORDERED** that:

1. Plaintiff's application to proceed *in forma pauperis* (ECF No. 1) is **GRANTED**. Plaintiff shall not be required to pay an initial installment of the filing fee. In the event that this action is dismissed, the full filing fee must still be paid pursuant to 28 U.S.C. § 1915(b)(2).

2. The movant herein is permitted to maintain this action to conclusion without the necessity of prepayment of any additional fees or costs or the giving of security therefor. This

1 order granting leave to proceed *in forma pauperis* shall not extend to the issuance and/or service
2 of subpoenas at government expense.

3 3. Pursuant to 28 U.S.C. § 1915(b)(2), the Nevada Department of Corrections shall
4 pay to the Clerk of the United States District Court, District of Nevada, 20% of the preceding
5 month's deposits to Plaintiff's account (**Cary J Pickett, #57591**), in the months that the account
6 exceeds \$10.00, until the full \$350.00 filing fee has been paid for this action. The Clerk of the
7 Court shall **SEND** a copy of this Order to the Finance Division of the Clerk's Office. The Clerk
8 of the Court shall also **SEND** a copy of this Order to the attention of the Chief of Inmate Services
9 for the Nevada Department of Corrections, P.O. Box 7011, Carson City, NV 89702.

10 4. The Clerk of the Court shall electronically **SERVE** a copy of this Order and a copy
11 of Plaintiff's Complaint (ECF No. 5) on the Office of the Attorney General of the State of Nevada
12 by adding the Attorney General of the State of Nevada to the docket sheet. This does not indicate
13 acceptance of service.

14 5. Service must be perfected within ninety (90) days from the date of this Order
15 pursuant to Fed. R. Civ. P. 4(m).

16 6. Subject to the findings of the screening order (ECF No. 4), within twenty-one (21)
17 days of the date of entry of this Order, the Attorney General's Office shall file a notice advising
18 the Court and Plaintiff of: (a) the names of the defendants for whom it accepts service; (b) the
19 names of the defendants for whom it does not accept service, and (c) the names of the defendants
20 for whom it is filing the last-known-address information under seal. As to any of the named
21 defendants for whom the Attorney General's Office cannot accept service, the Attorney General's
22 Office shall file, under seal, but shall not serve the inmate Plaintiff the last known address(es) of
23 those defendant(s) for whom it has such information. If the last known address of the defendant(s)
24 is a post office box, the Attorney General's Office shall attempt to obtain and provide the last
25 known physical address(es).

26 7. If service cannot be accepted for any of the named defendant(s), Plaintiff shall file
27 a motion identifying the unserved defendant(s), requesting issuance of a summons, and specifying
28 a full name and address for the defendant(s). For the defendant(s) as to which the Attorney General

1 has not provided last-known-address information, Plaintiff shall provide the full name and address
2 for the defendant(s).

3 8. If the Attorney General's Office accepts service of process for any named
4 defendant(s), such defendant(s) shall file and serve an answer or other response to the Complaint
5 (ECF No. 5) within sixty (60) days from the date of this Order.

6 9. Plaintiff shall serve upon defendant(s) or, if an appearance has been entered by
7 counsel, upon their attorney(s), a copy of every pleading, motion or other document submitted for
8 consideration by the Court. If Plaintiff electronically files a document with the Court's electronic-
9 filing system, no certificate of service is required. Fed. R. Civ. P. 5(d)(1)(B); Nev. Loc. R. IC 4-
10 1(b); Nev. Loc. R. 5-1. However, if Plaintiff mails the document to the Court, Plaintiff shall
11 include with the original document submitted for filing a certificate stating the date that a true and
12 correct copy of the document was mailed to the defendants or counsel for the defendants. If
13 counsel has entered a notice of appearance, Plaintiff shall direct service to the individual attorney
14 named in the notice of appearance, at the physical or electronic address stated therein. The Court
15 may disregard any document received by a district judge or magistrate judge which has not been
16 filed with the Clerk, and any document received by a district judge, magistrate judge, or the Clerk
17 which fails to include a certificate showing proper service when required.

18 10. Plaintiff's motion requesting that the Defendants be served the Complaint (ECF
19 No. 8) is DENIED as moot.

20 11. This case is no longer stayed.

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22 DATED THIS 15th day of December 2020.

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25 ELAYNA J. YOUCHAK
26 UNITED STATES MAGISTRATE JUDGE
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